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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

List of issues prior to submission of the fourth periodic report of Armenia, due in 2016*

The Committee against Torture, at its thirty-eighth session (A/62/44, paras. 23 and 24), established an optional procedure which consists in the preparation and adoption of a list of issues to be transmitted to the State party concerned prior to the submission of its periodic report. The replies of the State party to this list of issues will constitute its report under article 19 of the Convention.

Specific Information on the implementation of articles 1 to 16 of the Convention, including with regard to the Committee's previous recommendations

Articles 1 and 4

1. With reference to the Committee's previous concluding observations (para. 10),[1] please provide updated information on:

(a) Any progress made in amending the Criminal Code with a view to bringing the definition of torture in full conformity with article 1 of the Convention[2] and whether any related legislative reforms have been included in the National Human Rights Action Plan (NHRAP);

(b) Whether acts amounting to torture under the Criminal Code are subject to the statute of limitations.

* Adopted by the Committee at its fifty-third session (3–28 November 2014).

[1] Paragraph numbers in brackets refer to the previous concluding observations adopted by the Committee, published under the symbol CAT/C/ARM/CO/3.

[2] A/HRC/15/9, para. 93.5.

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Article 2[3]

2. With reference to the Committee's previous concluding observations (paras. 8 and 11) and in the light of the information received from the State party on follow-up to the concluding observations, please provide updated information on the status of the amendment and supplements to the Criminal Code, which were submitted to the National Assembly in September 2012, and on the status of the amendments to the Criminal Procedure Code, which was submitted to the National Assembly in November 2012.[4]

3. Please provide information on:

(a) Why the Prosecutor's Office refers cases involving marks of bodily harm upon arrival in penitentiary institutions to the police, given that most such cases allegedly occur in police custody;

(b) Reports that detained persons who have sustained bodily injuries in a police detention facility are pressured by the police to make a written statement that they were injured before detention as a result of falling from a "house roof, a tree or a staircase";

(c) Why preliminary inquiries into allegations of torture are conducted in a preliminary, pre-investigation, ex officio manner, and why most complaints concerning torture or ill-treatment are allegedly dismissed by the Special Investigation Service (SIS) without an official criminal investigation;

(d) Why a detainee only has one week to appeal a decision of dismissal of a case in the preliminary, pre-investigation, ex officio inquiry, after which all further complaints of torture or ill-treatment will be dismissed;

(e) Whether detainees who have one week to appeal a decision of dismissal of a case in the preliminary, pre-investigation, ex officio inquiry benefit from legal assistance, including from public defenders.

4. With reference to the Committee's previous concluding observations (para. 9), please provide information on the number of non-combat deaths in the armed forces, as well as on hazing and other mistreatment of conscripts by officers and fellow soldiers, during the period under review. Please also provide information on the outcome of any investigations conducted in that regard and on compensation and rehabilitation provided to victims and their families.

5. With reference to the Committee's previous concluding observations (para. 11), please provide updated information on:

(a) Any amendments to the Criminal Procedure Code to ensure all fundamental legal safeguards for all detainees from the very outset of the deprivation of their liberty, such as being informed of and understanding their rights, prompt access to a lawyer and, if necessary, to legal aid; notifying a member of their family or another appropriate person of their own choice; having access to a medical examination by an independent doctor free of

[3] The issues raised under article 2 could also imply different articles of the Convention, including but not limited to article 16. As indicated in the Committee's general comment No. 2 (2008) on the implementation of article 2 by States parties, "The obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment (hereinafter 'ill-treatment') under article 16, paragraph 1, are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture ... In practice, the definitional threshold between ill-treatment and torture is often not clear" (para. 3). See also chapter V of the same general comment.

[4] CAT/C/ARM/CO/3/Add.1, paras. 1–11.

charge and, if possible, by a doctor of their choice; and being brought promptly before a judge;[5]

(b) The keeping of police records of all periods of deprivation of liberty and on the introduction of electronic protocols of detention; whether persons for whom a protocol of detention has not been drawn up enjoy the fundamental legal safeguards outlined above; and if those records are available to the lawyers and relatives of detained persons;

(c) Whether the three-day time limit for transferring persons deprived of their liberty from a police station to a detention facility is respected; and whether the detainees are promptly brought before a judge;

(d) The introduction, during the period under review, of audio or video recording equipment in interrogation rooms of police stations and detention facilities;

(e) Any increase in funding provided to the Chamber of Advocates Public Defender's Office in order to ensure effective legal aid;[6]

(f) The reported practice of police officers discouraging detainees from requesting legal assistance, indicating that it may affect them negatively during the investigation, in the light of the follow-up information provided by the State party;[7]

(g) The status of the Action Plan accompanying the National Strategy for the Protection of Human Rights, in the light of the follow-up information provided by the State party.[8]

6. With reference to the Committee's previous concluding observations (para. 17), please provide information on measures taken by the State party to ensure the full independence and impartiality of the judiciary[9] in the appointment, promotion and dismissal procedures as well as in the performance of its functions, with a view to bring it in line with relevant international standards, including amending legislation which provides for criminal liability against judges for adopting an unjust judgement or other judicial act.

7. Please provide information on the measures taken to combat reported widespread corruption of public officials, especially in the judicial and penitentiary system.

8. With reference to the Committee's previous concluding observations (para. 18), please provide information on:

(a) Any amendments to the Criminal Code in order to make domestic violence a separate crime;[10]

(b) Efforts to create adequate conditions for women victims of violence, including domestic violence and trafficking, to make complaints;

(c) Measures taken to thoroughly investigate all allegations of domestic violence and trafficking, and to prosecute and punish all perpetrators; to establish a database on the number of cases of trafficking;[11] and on the implementation of the 2008 National Referral Mechanism for Trafficked Persons, during the period under review;

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[5] CCPR/C/ARM/CO/2, para. 19.
[6] A/HRC/15/9, para. 93.7.
[7] CAT/C/ARM/CO/3/Add.1, para. 11.
[8] Ibid., paras. 9–11.
[9] A/HRC/15/9, paras. 94.16 and 94.17; CCPR/C/ARM/CO/2, para. 21.
[10] A/HRC/15/9, para. 93.23 and 94.12; CCPR/C/ARM/CO/2, para. 8.
[11] CCPR/C/ARM/CO/2, para. 16.

(d) Efforts to provide victims of violence with protection and redress, including by establishing State-funded shelters and enhancing the funding of refuge and support services provided to victims of domestic violence, including access to safe emergency accommodation and to professional medical and psychological assistance;

(e) Efforts to conduct awareness-raising campaigns and provide training on domestic violence and trafficking to law enforcement and police officials, social workers and medical personnel, in particular, as well as to the public at large, on how to detect and adequately advise victims.[12]

9. With reference to the Committee's previous concluding observations (para. 22), please provide information on:

(a) Specific measures to provide the necessary financial and human resources to the Office of the Human Rights Defender[13] in order to enable it to carry out its dual mandate as Ombudsman and national preventive mechanism of Armenia effectively and in accordance with the Guidelines on national preventive mechanisms (CAT/OP/12/5);

(b) Steps taken to ensure that law enforcement, prosecutorial, military and prison officials fully cooperate with the Human Rights Defender and implement its recommendations;

(c) Steps taken to implement the recommendations of the Subcommittee on Prevention of Torture national preventive mechanism advisory visit, conducted in September 2013.

Article 3

10. With reference to the Committee's previous concluding observations (para. 24), please provide information on:

(a) Respect of the State party's non-refoulement obligations under article 3 of the Convention, including compliance with normal procedures for extradition and the right to appeal the issuance of an extradition or expulsion warrant, in accordance with article 479, paragraph 2, of the Criminal Procedure Code;

(b) The number of persons extradited during the period under review under the extradition agreement between the National Police of Armenia and the Police of the Russian Federation;

(c) Cases, during the period under review, regarding the return of asylum applicants, in which the State party has sought diplomatic assurances from a State where there are substantial grounds for believing that a person would be at risk of being subjected to torture.

Articles 5, 7 and 8

11. Please provide information on whether the State party has rejected, for any reason, requests for extradition by another State of an individual suspected of having committed an offence of torture, and has started prosecution proceedings as a result. If so, please provide information on the status and outcome of such proceedings.

[12] Ibid., para. 8.
[13] A/HRC/15/9, para. 93.6.

Article 10

12. In the light of the Committee's previous concluding observations (para. 25), please provide information on:

(a) Any measures taken to provide specific training on the provisions of the Convention, in particular, the prohibition of torture, to law enforcement officials, military personnel and prison staff, and any methodologies developed to assess and monitor effectiveness and impact of the training;

(b) Measures to ensure that medical personnel and others involved in the custody, interrogation or treatment of persons deprived of their liberty, as well as professionals involved in the documentation and investigation of torture and ill-treatment, are provided with training on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).

Article 11

13. With reference to the Committee's previous concluding observations (para. 19), please provide updated information on:

(a) Measures taken to improve the material conditions in prisons in order to bring them into line with international standards, including efforts to reduce overcrowding,[14] improve hygiene, sanitation, heating, lighting and ventilation of cells, the state of repair, the regime of activities, the size and occupancy of cells, the quality of the food and health services, as well as to increase the number of penitentiary staff and qualified medical personnel;

(b) Specific measures taken to improve the situation of prisoners sentenced to life imprisonment, in particular in the Kentron and Nubarashen Prisons in Yerevan, including their mental health needs, frequency of showers, handcuffing outside of cells, meaningful activities, and on any review of legislation regarding their segregation and human contact; as well as the management of prisoners who are on hunger strike or who have committed acts of self-harm. Please also indicate whether the three disciplinary cells at Nubarashen Prison have been closed;

(c) Whether some prisoners continue to be subjected to violence and abusive treatment as a result of being singled out by groups of prisoners based on perceived sexual orientation or nationality;

(d) Efforts made to prevent criminal activity in prisons and inter-prisoner violence which may result in suicides;

(e) Measures to ensure in practice examination of detainees by an independent medical doctor;

(f) Any measures taken to increase the application of alternative measures to incarceration, in line with the provisions of the United Nations Standard Minimum Rules for Non-custodial Measures (Tokyo Rules), and establish a probation service in charge of alternative punishment, conditional release and rehabilitation with a view to reducing overcrowding;

(g) Measures to establish a confidential system for receiving and processing complaints regarding torture or ill-treatment in all places of deprivation of liberty;

[14] A/HRC/15/9, para. 93.33; CCPR/C/ARM/CO/2, para. 20.

(h) Whether the Police Monitoring Group has access to all police stations, including the ability to conduct unannounced visits.

14. With reference to the Committee's previous concluding observations (para. 21), please provide information on:

(a) Any measures taken by the State party to establish a juvenile justice system[15] in compliance with international standards, including the establishment of a specialized juvenile division or jurisdiction with judges and other judicial staff having professional competence to deal with juvenile cases; as well as any specialized courses offered by the Judicial Academy;

(b) Measures taken to adopt special standards of interrogation for juveniles who may be suspects, accused, witnesses or victims; as well as measures to ensure that juveniles are not physically or otherwise abused upon entering the criminal justice system;[16]

(c) Efforts to closely monitor the situation in special schools and closed or partially closed institutions such as the Vanadzor Children's Home and the Vanadzor Care and Protection Centre,[17] with a view to ensuring that children are not subjected to intimidation, ill-treatment or violence;

(d) Whether solitary confinement[18] continues to be used in special schools; whether it is used as an exceptional measure of last resort for as short a time as possible; and whether it is under strict supervision and subjected to judicial review;

(e) Any specialized structures for the physical and psychological recovery and social rehabilitation and reintegration of juvenile offenders.[19]

Articles 12 and 13

15. With reference to the Committee's previous concluding observations (para. 12), please provide:

(a) Detailed statistical data, disaggregated by crime committed, ethnicity, age and sex, on complaints relating to torture and ill-treatment allegedly committed by law enforcement officials, on related investigations, prosecutions and convictions, and on the penal or disciplinary sanctions applied. Please specify the provision(s) of the Criminal Code, under which the defendants were convicted. Please indicate which authority investigated the complaints, the authority's level of independence and how many public officials were suspended from duties during the investigation. Finally, please report on cases of reconciliation between the defendants and the victims of torture and whether investigations of acts of torture were halted as a result;

(b) Information on the number of defendants involved in cases of acts of torture or ill-treatment who were granted amnesty during the period under review.

16. With reference to the Committee's previous concluding observations (para. 13), please provide comprehensive updated information on:

(a) All reported cases of deaths in custody, including location, cause of death and the results of any investigations conducted into such deaths, including liability of public

[15] A/HRC/15/9, para. 94.19; CRC/C/ARM/CO/3-4, paras. 51 (a) and 52 (a).
[16] A/HRC/WG.6/8/ARM/3, para. 25.
[17] CRC/C/ARM/CO/3-4, para. 25.
[18] Ibid., para. 51 (c).
[19] Ibid., para. 51 (e); CCPR/C/ARM/CO/2, para. 23.

officials, the identity and independence of the investigation bodies, punishment of perpetrators and compensation to relatives of the victims;

(b) The outcome of investigations into the deaths of Levon Gulyan and Vahan Khalafyan;

(c) Procedures for releasing and number of persons released on humanitarian (compassionate) grounds.

17. With reference to the Committee's previous concluding observations (para. 20), please provide information on:

(a) The outcome of the investigation into the 10 deaths that occurred during the clashes between police and protesters following the February 2008 elections,[20] including the establishing of the command responsibility of senior police and security officials in that connection;

(b) Whether individuals believed to have knowledge of the March 2008 events have been effectively protected from reprisals and intimidation; and the measures taken to bring to justice the attackers portrayed in the letter of 11 September 2013;

(c) Investigations conducted with regard to any law enforcement officials for excessive or indiscriminate use of force, ill-treatment and denial of legal safeguards; whether they were prosecuted and punished with sentences appropriate to the gravity of the crime; and the exact sentences handed down;

(d) Whether the families of the victims received adequate redress, including compensation.

18. With reference to the Committee's previous concluding observations (para. 14), please provide information on:

(a) Any progress in the establishment of an effective mechanism to facilitate submission to public authorities of complaints by victims of and witnesses to torture, as well as any other measures to protect them against intimidation, reprisals or ill-treatment as a result of their complaint;

(b) Specific steps taken to protect human rights defenders and journalists from intimidation and violence and related investigations of such cases.[21]

Article 14

19. With reference to the Committee's previous concluding observations (para. 15), please provide information on any amendments made to legislation, during the period under review, that include explicit provisions on the right of victims of torture to redress, including fair and adequate compensation and rehabilitation for damages caused by torture, as envisaged in the National Human Rights Action Plan. Please include information on the allocation of resources to ensure the effective functioning of established rehabilitation programmes.

20. In the light of paragraph 46 of the Committee's general comment No. 3 (2012) on the implementation of article 14 by States parties, please provide information on redress and compensation measures ordered by the courts since the consideration of the last periodic report, including the number of requests for compensation received, the number granted and the amounts ordered and actually provided in each case. Furthermore, please

[20] A/HRC/15/9, para. 93.27.

[21] Ibid., para. 94.15; CCPR/C/ARM/CO/2, para. 26.

indicate what kind of rehabilitation programmes are provided to victims and which kind of assistance (e.g. medical, psychological, social, legal) these programmes include.

Article 15

21. With reference to the Committee's previous concluding observations (para. 16), please provide information on:

(a) Steps taken to bring national legislation concerning evidence to be adduced in judicial proceedings in line with article 15 of the Convention;

(b) Steps taken by the State party, during the period under review, to combat the use of torture to extract confessions and to ensure that such confessions are never used as evidence in judicial proceedings;

(c) The number of cases in which the courts deemed confessions to be inadmissible as evidence, on the grounds that they were obtained through torture;[22] as well as the number of convictions based solely on confessions that have been reviewed;

(d) The number of proceedings suspended, pending investigation of claims that confession was obtained through torture, whether, and how many, officials were prosecuted and punished for using torture to extract such confessions.

Article 16

22. In the light of the Committee's previous concluding observations (para. 23), please provide updated information on: any amendments to the Alternative Military Service Act; whether alternative service continues to be supervised exclusively by military personnel; and whether the detention of all persons imprisoned for refusing to perform the alternative service proposed on religious grounds has been reviewed.[23]

23. Pursuant to the commitments undertaken by the State party in respect of the universal periodic review, please provide information on any amendments to legislation as well as specific steps taken to explicitly prohibit the use of corporal punishment in all settings, including non-institutional forms of care, and to provide for enforcement mechanisms under its legislation, including appropriate sanctions in cases of violation.[24] Please also indicate whether any awareness-raising and education campaigns have been conducted on the harmful effects of corporal punishment and to promote positive non-violent forms of discipline as an alternative to corporal punishment.

Other issues

24. Please provide updated information on the measures taken by the State party to respond to any threats of terrorism and describe if, and how, those anti-terrorism measures have affected human rights safeguards, in law and in practice, and how the State party has ensured that those measures comply with all its obligations under international law, especially the Convention, in accordance with relevant Security Council resolutions, in particular resolution 1624 (2005). Please describe the relevant training provided to law enforcement officers; the number of persons convicted under such legislation; the legal safeguards and remedies available to persons subjected to anti-terrorist measures, in law and in practice; whether there have been complaints of non-observance of international standards; and the outcome of those complaints.

[22] A/HRC/15/9, para. 93.32.
[23] CCPR/C/ARM/CO/2, para. 25.
[24] A/HRC/15/9, para. 93.25; CRC/C/ARM/CO/3-4, para. 25.

General information on other measures and developments relating to the implementation of the Convention in the State party

25. Please provide detailed information on any other relevant legislative, administrative, judicial or other measures taken since the consideration of the previous periodic report to implement the provisions of the Convention or the Committee's recommendations, including institutional developments, plans or programmes, resources allocated, statistical data or any other information that the State party considers relevant.